

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HASAN S.D. GHITHAN,

Petitioner,

v.

TOM MILLER, Attorney General,
KRISTJEN NIELSEN, Secretary of
DHS, and WILLIAM CONNOR,
U.S. ICE Field Office Director of the
Nebraska District,

Respondents.

8:18CV204

MEMORANDUM AND ORDER

Petitioner has filed a habeas corpus action under 28 U.S.C. § 2241 challenging his continued immigration detention at a facility in Council Bluffs, Iowa. After initial review under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts¹, I will dismiss the petition without prejudice. The Supreme Court has held that “[t]he plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 432, 443 (2004).

In short, Petitioner must file his petition in the federal court for the Southern District of Iowa where he is presently confined. Petitioner could do this by preparing another § 2241 petition and sending it to the Clerk of Court, U.S. District Courthouse,

¹ Rule 1(b) of the Rules Governing Section 2254 Cases in the United States District Courts allows me to apply Rule 4 of those rules to a section 2241 petition. See also 28 U.S.C. § 2243.

8 South 6th Street, Council Bluffs, IA 51501. That is the same city in which Petitioner is presently confined.

Finally, and although Petitioner sought relief under 28 U.S.C. § 2241, he must obtain a certificate of appealability if he wishes to appeal. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b)(1); Rule 1(b) and Rule 11(a) of the *Rules Governing Section 2254 Cases in the United States District Courts*. The standards for certificates (1) where the district court reaches the merits or (2) where the district court rules on procedural grounds are set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-485 (2000). I have applied the appropriate standard and determined that Petitioner is not entitled to a certificate of appealability.

IT IS ORDERED that the petition for writ of habeas corpus (filing no. 1) is denied and dismissed without prejudice. No certificate of appealability has been or will be issued. Judgment will be entered by separate document.

DATED this 8th day of August, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge